

REMARKS

The present communication responds to the final Office action of August 14, 2006 in which the Examiner rejected claims 1-8, 10, 11, 13, 14, 16, 19-21, 26, 27, 33, 35 and 37. Claim 8 was rejected under 35 U.S.C. § 112, second paragraph as having insufficient antecedent basis for limitation in the claim and claims 1-7, 10, 11, 13, 14, 16, 19-21, 26, 27, 33, 35 and 37 were rejected under 35 U.S.C. § 102(b) as being anticipated by Iwatschenko (U.S. 4,306,563).

The above amendments are formal, the claim rejections are traversed in view thereof and for at least the reasons articulated herein below, and entry and reconsideration are requested.

Claims 1-21 and 26-52 are pending. Claims 9, 12, 15, 17, 18, 28-32, 34, 36 and 38-52 were withdrawn from consideration by the Examiner. Claims 1, 6, 7, 26, 27 and 35 have been cancelled. Claim 8 has been rewritten in independent form. Claims 2, 3, 10, 14, 19 and 28 depending from cancelled claim 1 have been amended to depend from amended claim 8. Withdrawn claims 9, 15, 17, 18 and 28 that depended from cancelled claim 1 have been amended to depend from claim 8 in preparation for rejoinder. Claims 33 and 37 have been amended. Withdrawn claim 38 which depends from amended claim 33 has been currently amended to have proper antecedent basis in preparation for rejoinder. Support for the amended claims can be found in general throughout the specification and in particular, for example, at page 6, lines 15-21.

Amendments to the Specification

In the specification, the paragraphs [0047], [0049] and [0054] have been amended to correct typographical errors.

Rejection Under 35 U.S.C. § 112

Claim 8 was rejected under 35 U.S.C. § 112, second paragraph as having insufficient antecedent basis for the limitation in the claim.

Claim 8 has been rewritten in independent form and incorporates all the limitations of the corresponding independent and dependent claims thereby obviating this rejection.

Therefore, reconsideration and withdrawal of the § 112, second paragraph rejection of claim 8 are requested.

Rejection under 35 U.S.C. § 102

Claims 1-7, 10, 11, 13, 14, 16, 19-21, 26, 27, 33, 35 and 37 were rejected under 35 U.S.C. § 102(b) as anticipated by Iwatschenko (U.S. 4,306,563).

Claims 1, 6, 7, 26, 27 and 35 have been cancelled. Claims 2-5, 10, 11, 13, 14, 16 and 19-21 now depend directly or indirectly from amended claim 8.

For a reference to be anticipate under 35 U.S.C. § 102(b), the reference must disclose each and every element of the claimed invention. Amended claim 8 is directed to a cannula which increases in pliability during use, wherein, prior to application, said cannula includes a material of a first variable hardness and a second material having a second hardness of which said material having the greater hardness is at least partially dissolved during use, wherein the material of the first variable hardness is or includes a polymer based on a polyamide.

Iwatschenko discloses a catheter for introduction into body cavities which is made out of a high molecular material, for example plastic or latex, and a physiologically compatible external rigidizing coating. (Iwatschenko, col. 1, lines 7-10.) Iwatschenko does not disclose a material of the first variable hardness that is or comprises a polymer based on a polyamide. To the contrary, Iwatschenko discloses that it is particularly advantageous to use gelatine as the coating stiffening material. (Iwatschenko, col. 2, lines 39-40.) Iwatschenko further discloses that in an advantageous embodiment, the stiffening coating may consist of polyvinyl alcohol, preferably with a portion of 10-25% acetate groups ($\text{CH}_3\text{-COO}$). (Iwatschenko, col. 3, lines 8-11.)

Claim 33 has been amended and is directed to a cannula that increases in pliability during use, wherein the cannula includes a water-absorbing material based on a polyamide of a first variable hardness that decreases in hardness upon water absorption, and a material having a second hardness. Again, Iwatschenko does not disclose a cannula including a water-absorbing material based on a polyamide.

Because claim 37 depends from claim 33 and incorporates all the limitations of claim 33, it is allowable for the same reasons and, further, in view of its additional recitations.

For at least the preceding reasons, the rejection of claims 2-5, 10, 11, 13, 14, 16, 19-21, 33 and 37 under 35 U.S.C. § 102 should be reconsidered and withdrawn.

Conclusion

The Commissioner is hereby authorized to charge any deficiencies and credit any overpayments associated with this paper to Deposit Account No. 04-1420.

This application now stands in allowable form, and reconsideration and allowance are requested.

Respectfully submitted,

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